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UNCLAS SECTION 01 OF 04 PRAGUE 000339

SENSITIVE  
SIPDIS

STATE FOR EEB/ESC, EUR/ERA, LA/EBA/BRIAN EVANS  
TREASURY FOR GLOBAL AFFAIRS, TFFC, OFAC AND OSP  
ICE FOR TF INVESTIGATIONS - JOINT VETTING UNIT/DAVID KANE

E.O.12958: N/A

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PTER, UNSC, SNAR, EUN, EZ

SUBJECT: PART 2: U.S.-EU COUNTER-TERRORIST FINANCING WORKSHOP  
(PRAGUE MAY 27-28): WIRE TRANSFERS AND NEW PAYMENT METHODS

Ref: PRAGUE 338

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11. (U) This message contains an Action Request. Please see paragraph 7.

12. (SBU) SUMMARY. This is the second of two cables reporting on U.S.-EU Terrorism Finance Workshop held in Prague on May 27-28. In response to U.S. diplomatic efforts, the Czech Presidency of the European Union (EU), in partnership with the upcoming Swedish Presidency, hosted the eighth in a series of expert-level U.S.-EU workshops on combating terrorism finance. About 120 participants from EU member states and institutions, the U.S., and the UN Monitoring Team attended the workshop, which focused on opportunities for U.S.-EU cooperation in three new areas: wire transfers, non-profit organizations and new payment methods. While recognizing differences between the U.S. and EU legal framework and practice, workshop participants focused on commonalities and agreed to prepare a common outreach paper to be approved by the U.S. and EU member states. The next workshop will take place under the Spanish EU Presidency during the first half of 2010. This cable reports on discussions relating to wire transfers, new payment methods and ideas for U.S.-EU future cooperation (Part 1 (reftel) addresses non-profit organizations). Europeans requested USG assistance in bringing U.S. wire transfer companies into compliance with FATF SR VII. END SUMMARY.

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1I. Implementation of FATF SR VII: Wire Transfers  
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13. (SBU) Workshop participants recognized that terrorists often find ways to exploit new technology. U.S. presenters expressed particular concern over e-payments/e-currency, online gaming and pornography sites, stored-value cards, and mobile payments. In the first session, the U.S., EU and European private sector representatives exchanged experiences and discussed challenges related to the implementation of Financial Action Task Force (FATF) Special Recommendation VII (SR VII) on wire transfers. EU speakers presented implementation of SR VII in the European legal framework,

the European common understanding on wire transfers, Germany's implementation of SR VII at a national level, EU private sector implementation, and practical examples of transfers non-compliant with the regulations. U.S. Department of the Treasury, Director of Strategic Policy Chip Poncy compared and contrasted the EU approach to SR VII with the U.S. approach, including a discussion of the comprehensive U.S. legal framework and challenges the U.S. faces.

14. (SBU) The U.S. and EU acknowledged that:

- Implementation of SR VII is crucial in identifying and addressing terrorist financing (TF) and other illicit financing risks for banks and other financial institutions, law enforcement and national security authorities, and sanctions enforcement authorities;

- The private sector continues to be an essential partner in combating financing of terrorism (CFT) and regulatory authorities must work with private sector to ensure compliance, including through enforcement actions where appropriate;

- The private sector is concerned by reports questioning the quality of the many government-issued lists of identifiers for use in banks' costly compliance software -- their measures can only be as good as the data they are checking against;

- The private sector struggles with implementing so many government watch lists without consolidated data (e.g., trade controls, economic sanctions, technology controls, terrorism lists, suspect government officials lists, money laundering lists, criminal activity lists, etc.); and

- Law enforcement and sanctions authorities must exploit data reported from financial institutions to ensure maximum benefit in

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identifying and investigating TF and other forms of illicit finance. Both U.S. and EU government authorities should provide greater feedback to the financial community about the importance of SR VII in combating TF and other illicit finance.

15. (SBU) Following the presentations, multiple EU member state and institutional delegations raised concerns that most of the non-compliant wire transfers in their jurisdictions originate in the U.S. via U.S. wire transfer companies or banks. The EU may not be able to force compliance with this law because the source of the problem originates under the U.S. jurisdiction. EU banks may be reluctant to draw regulators' attention to the noncompliance of their U.S. partners for fear of losing key relationships, especially in today's challenging financial sector climate. The U.S. delegation explained that this was probably due to a difference in legal threshold for mandatory identity disclosure. The U.S. delegation also pointed out that in regards to Western Union and other money service businesses (MSBs), the industry practice was to include identification information on all transfers over \$1,000 (the FATF standard), even though the U.S. legal requirement was \$3,000. Belgium's representative to the EU's "Three Level Three (3L3) Committees" (e.g., CEBS (Committee of European Banking Supervisors), CESR (Committee of European Securities Regulators), and CEIOPS (Committee of European Insurance and Occupational Pensions Supervisors)) Anti-Money Laundering Task Force (AMLTF) noted that it was important for financial institutions to maintain a dialogue with regulators and to notify them of countries which repeatedly fail to comply with SR VII. A representative from Italy asked whether the U.S. and EU should sign a Memorandum of Understanding to address the gap between our SR VII approaches.

16. (SBU) The U.S. and EU agreed to engage regulators to explore ways to address noncompliance on SR VII through a collaborative approach with respective regulatory counterparts. The U.S. also promised to share with EU FATF representatives information about possible upcoming opportunities to submit comments on potential changes to the U.S. rules relevant to SR VII via our open Notice of Public Rule-Making (NPRM) procedures.

17. (SBU) ACTION REQUEST / COMMENT: Given the importance of this issue to several EU capitals, posts would benefit from coordinated

U.S. interagency and regulatory guidance on how the U.S. and EU could address the SR VII discrepancy issue. The EU appears willing to work with the U.S. in good faith to achieve full compliance with SR VII. If the USG plans to meet the FATF standard by revising a threshold of \$1000 for wire transfer company reporting requirements, this could help the EU in turn implement full compliance with the international standard. END ACTION REQUEST / COMMENT.

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II. New Payment Methods  
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18. (SBU) Participants recognized that the payment market is fast developing. New payment methods are continuously emerging to benefit consumers, but these also pose new threats of misuse by terrorists and criminals. Participants agreed that risk assessment and deployment of countermeasures should strike the right balance between allowing the market to develop and minimizing the possibility of money laundering and terrorist financings abuses.

19. (SBU) Lars Rutberg of the Swedish Bankers' Association (SBA) described new market trends and the new regulatory framework in the EU, including:

-- the new EU Payments Services Directive (PSD), to be implemented by the EU Member States by November 1, 2009, which applies not only to banks but to many other types of payment/financial institutions in the EU area such as money remitting businesses.

-- the new EU "E-Money" Directive, adopted by the European Parliament on April 24, 2009, now awaiting adoption by the European Council in September of 2009.

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-- Regulation 2560 on cross border payments, adopted by the European Council on April 24, 2009, which extends new regulatory coverage on payments to direct debits.

110. (SBU) Rutberg reported that there has been a significant improvement in wire transfer compliance in Sweden. Upon immediate implementation of the FATF SR VII measures in Sweden concerning originator information on wire transfers, the Swedish Bankers' Association noted that approximately 30 percent of the transfers were non-compliant. The majority of the non-compliant transfers involved transfers from or through American banks. [See above.] The rate of noncompliance has since decreased: currently 2 or 3 of every 1,000 transfers are non-compliant with the EU law. The major technical problems continue to be the wrong format in which wire information is entered (i.e. not entered in SWIFT format, entered into incorrect boxes, and etc.).

111. (SBU) Rutberg focused on the role of the Euro Payments Council (EPC), established in 2002 to facilitate the migration from a national to a Single European Payment Area (SEPA). The formation of the EPC was strongly supported by the European Central Bank (ECB) and the European Commission. There are currently two rule books under SEPA: SEPA Credit Transfer, which came into force on 1/28/09; and SEPA Direct Debit, which will take effect in November 2009. Other new regulatory "frameworks" being developed by the ECB include: SEPA Online Payments, the E-Mandate (internet currency), mobile phone payments, and E-Invoice.

112. (SBU) David Kane, U.S. DHS/ICE, described the threat posed by the lack of regulation over stored value cards (SVCs). While most money laundering and banking experts view SVCs as cash equivalents, SVCs are not subject to currency and monetary instrument reporting requirements (CMIR) in the U.S. upon importation/exportation that apply to cash, money orders and certain checks, creating a loophole for potential abuses. For example, if criminal and terrorist organizations utilize SVCs to move large amounts of their illicit funds to/from the U.S., they could do so anonymously by using ATM machines for deposits and withdrawals, which would be very difficult for law enforcement to spot or track. To prevent this, the SVCs should be made subject to the same regulatory regime upon exportation from, or importation into the U.S. (CMIR reporting) as

cash and its equivalents.

¶13. (SBU) Rutberg echoed Kane's concerns and said that the SBA was closely monitoring these SVC service providers in Sweden, and has already shutdown numerous shady SVC providers. Concluding the discussion, Veronica Fucile of the Bank of Italy applauded FATF's reconsideration of how to better regulate and handle alternate payment methods, which the Italian banking community views as ripe for abuse by terrorist organizations.

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III. Ideas for U.S.-EU Future Cooperation  
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¶14. (SBU) In the closing session, Tomas Ruml, Czech Presidency chair of the EU Council Working Party on Terrorism (COTER), proposed the following five guidelines for future U.S.-EU terrorist finance workshop cooperation on behalf of the EU:

-- The Nine FATF Special Recommendations should constitute the basis for future dialogue;

-- Countering terrorist financing must be dynamic, continuously engaging new and cross-pillar strategies;

-- All relevant public authorities and industries must be involved. Dialogue with the private sector is a key factor in successful combating terrorist financing;

-- The U.S.-EU dialogue should continue in the format of the workshops to which private sector representatives should be invited as appropriate; and

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-- The workshops should be held once per year.

¶15. (SBU) Announcing that the EU would continue to work on refining these guidelines, Ruml emphasized that the EU is open in principle to discussing any terrorism finance-related topic in future workshops. (Comment: The U.S. delegation offered informal feedback on this proposal on the margins of the event, but we must follow up. The Czech proposal may be aimed at solidifying an EU consensus to allow a broader discussion with the U.S. on sensitive TF issues. See also comment regarding workshop next steps in reftel.) On behalf of the U.S. delegation, Poncy welcomed future dialogue, but noted the challenge of translating workshop discussions into action.

¶16. (SBU) In closing remarks, a European Commission representative reiterated a desire to better coordinate U.S. and EU CTF efforts in third countries, particularly to avoid duplication of efforts in providing technical assistance programs. A German representative repeated a request made at the previous workshop to explore a similar venue for U.S.-EU experts to discuss challenges related to country-specific sanctions regimes. The U.S. delegation welcomed this idea and agreed to participate if the EU wished to pursue. [Note: The latter does not reflect a coordinated Government of Germany position or proposal. German economic and finance ministries would actually likely oppose such an initiative if pursued formally. Nonetheless, the Czech Presidency raised this proposal at the TF Troika the following day. Troika participants agreed that country-based sanctions should be addressed in an alternative venue, perhaps during the presidency which is not hosting the annual TF workshop.] Finally, workshop participants agreed to prepare a common outreach paper to be approved by the U.S. and EU member states.

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Participants  
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¶17. (U) U.S. participants included representatives from the State Department's Bureau of Economic, Energy and Business Affairs/Terrorist Financing and Economic Sanctions Policy, the State's Office of European Union and Regional Affairs; the U.S.

Mission to the EU; U.S. Embassy Prague; U.S. Embassy Stockholm; the Treasury Department's Office of Global Affairs/Terrorist Financing and Financial Crimes Office (TFFC), Office of Strategic Policy (OSP), and the Department of Homeland Security's Terrorist Financing Investigations - Joint Vetting Unit, Immigration and Customs Enforcement (ICE). TFFC and OSP made formal presentations in this workshop. The approximately 100 European workshop participants included representatives from the EU member states, the EU Commission, the EU Council, EUROPOL, Switzerland, and the UN Monitoring Team.

ThompsonJones